

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO *ex rel.*
State Engineer,

Plaintiff,
v.

ROMAN ARAGON, *et al.*,

Defendants.

6:69-cv-07941-BB-LFG

RIO CHAMA STREAM SYSTEM

Section 7, Cañones Creek

NOTICE AND ORDER TO SHOW CAUSE

KINSLOW-HERBERT LIVING TRUST
c/o NEIL J. HERBERT
208 HARVARD LANE
SEAL BEACH CA 90740

Subfile No.: CHCC-001-0009

Ditch or Acequia

DAGGETT DITCH NO. 1

Priority Dates

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the priority date for your water right and ditch, or the priority date for any other community or private ditch in the Cañones Creek Subsection of Section 7 ("Cañones Subsection") as described below:

<u>DITCH</u>	<u>PRIORITY DATE</u>
Daggett Ditch No. 1	1902
Daggett Ditch No. 2	1902
Daggett Ditch No. 3	1902
Daggett Ditch No. 4	1902
Daggett Ditch No. 5	1902
Gentry Ditch No. 1	1902
Gentry Ditch No. 2	1902
Cañones Ditch No. 1	1861
Cañones Ditch No. 2	1861
Unnamed Ditch No. 1	1861
Unnamed Ditch No. 2	1861
Unnamed Ditch No. 3	1861
Unnamed Ditch No. 4	1861
Barranco Ditch	1861
Sanchez y Chavez Ditch	1877

These priority dates described above will apply to all individual irrigation water rights served by the ditches listed, unless you or other parties file objections. The priority dates for ditches listed above will also apply to a spring that serves as a source of water for irrigators under those ditches, and which is described in an individual subfile order filed with the Court.

You are hereby notified that you are required to file an objection with the Court if you disagree with the State's proposed determination of the ditch-wide priority dates for lands in the Cañones Subsection that are irrigated under a final license issued by the Office of the State Engineer, as described below:

<u>DITCH</u>	<u>OSE LICENSE</u>	<u>PRIORITY DATE</u>
Sargent Cañones Ditch	No. 1975	November 27, 1931
North Cañones Ditch	No. 1609	December 11, 1923
H.N.D. Ditch	No. 1544	December 1, 1922

Irrigation Water Requirements

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use under pre-1907 ditches located in the Cañones Subsection, as described below:

- a. The weighted consumptive irrigation requirements (CIR) is 1.05 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 2.63 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 4.38 acre-feet per acre per annum.

The ditches in the Cañones Subsection to which the above amounts apply are all of the ditches identified above with the exception of Sargent Cañones Ditch, North Cañones Ditch and H.N.D. Ditch.

You are hereby notified that you are required to file an objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use on lands in the Cañones Subsection that are irrigated under a final license issued by the Office of the State Engineer, as described below:

Sargent Cañones Ditch:

- a. The weighted consumptive irrigation requirement (CIR) is 1.05 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 1.5 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 2.5 acre-feet per acre per annum.

North Cañones Ditch:

- a. The weighted consumptive irrigation requirement (CIR) is 1.05 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 1.5 acre-feet per acre per annum.

- c. The project diversion requirement (PDR) is 2.5 acre-feet per acre per annum.

H.N.D. Ditch:

- a. The weighted consumptive irrigation requirement (CIR) is 1.05 acre-feet per acre per annum
- b. The farm deliver requirement (FDR) is 1.3 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 2.17 acre-feet per acre per annum

The term “Consumptive Irrigation Requirement” (“CIR”) refers to the quantity of water, expressed in acre-feet per acre per year, exclusive of effective precipitation, that is consumptively used by plants or is evaporated from the soil surface during one calendar year. The term “Farm Delivery Requirement” (FDR) refers to the quantity of water expressed in acre-feet per acre per year, exclusive of effective precipitation, delivered to the farm headgate or which is diverted from a source of water which originates on the farm itself, such as a well or spring, necessary to satisfy the consumptive irrigation requirements of crops grown on a farm in one calendar year. The Project Diversion Requirement” (PDR) or off-farm diversion requirement is defined as the quantity of water, exclusive of effective precipitation, which is diverted from the stream or an off-farm source to satisfy the farm delivery requirement for one calendar year. The irrigation water requirements set forth above do not include diversion requirements associated with stockponds or other impoundments determined to have valid water rights in these proceedings.

If you agree with the priority dates and irrigation water requirements described above, you do not need to take any action. If any objections are filed by any persons, you will be notified of the objections and may participate in the proceedings to resolve those objections. If no objections are filed, the Court will enter an order that recognizes those elements of your water rights and the water rights of other surface water users in the Cañones Subsection as described above. If you disagree, you must follow the instructions below.

In the absence of any objections, you will have no other opportunity in these proceedings to object to the determination of priority dates or irrigation water requirements in the Cañones

Subsection, and subsequent *inter se* proceedings in the Cañones Subsection will not include the opportunity to object to those determinations.

IT IS THEREFORE ORDERED THAT if you object to any of the priority dates stated above, or to the irrigation water requirements for surface water irrigation use in the Cañones Subsection as stated above, you must file the form entitled Objection and Response to Notice and Order to Show Cause with the Court, in person or by mail **FOR RECEIPT NO LATER THAN December 15, 2011.**

United States District Court Clerk
333 Lomas Blvd. NW, Suite 270
Albuquerque, NM 87102

If you timely file an objection the Special Master will notify you of a mandatory scheduling and pretrial conference, where you will learn how objections will be heard by the Court. This will be your only opportunity to object to these elements of your water rights in the Cañones Subsection. If you fail to timely object and attend the scheduling and pretrial conference you may not raise objections in the future.

If you have any questions, call or write:

Edward G. Newville
Special Assistant Attorney General
Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 867-7444 telephone
(505) 867-2299 facsimile

or,

John W. Utton
Attorney for Asociación de Acéquias
Norteñas de Rio Arriba
Sheehan & Sheehan, PA
P.O. Box 271
Albuquerque, NM 87103-0271
(505) 699-1445 telephone
(505) 842-8890 facsimile



BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE